

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JANUARY 10, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-24532 - APPLICANT/OWNER: STARS INVESTMENT, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

***Planning and Development***

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-24531) and Variance (VAR-24872) shall be required.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow 13 parking spaces where 16 spaces are the minimum required on 0.24 acres at 910 East Sahara Avenue. As a parking impaired development the number of parking spaces for the older building is currently deficient by three spaces. The applicant intends to increase the square footage of the building, which will require a total of 16 spaces on the site.

As there are no topographical constraints existing on the site that preclude adherence to Title 19.10 Parking requirements, staff finds the site is being overbuilt and recommends denial.

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>      |   |
|--|---|
| 05/17/2006   | The City Council approved a request for a General Plan Amendment (GPA-9219) to change the Future Land Use designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area. |
| 10/25/07   | This Variance (VAR-24532) and related Site Development Plan Review (SDR-24531) and Variance (VAR-24872) to allow a four-foot side yard setback, were held in abeyance from the 10/25 Planning Commission meeting at the request of the applicant.   |
| <b><i>Related Building Permits/Business Licenses</i></b>                       |   |
| 02/21/91   | Office Remodel / 908 East Sahara Avenue   |
| <b><i>Pre-Application Meeting</i></b>  |   |
| 08/21/07   | Discussed issues with existing building, parking requirements and requesting a waiver of the parking fingers.   |
| <b><i>Neighborhood Meeting</i></b>   |   |
| A neighborhood meeting is not required for this application, nor was one held. |   |

| <b><i>Field Check</i></b> |  |
|---------------------------|--|
| 09/18/07                  | An inspection of the site was performed by the Planning and Development staff and was noted the stairway and gas meter on north side of building appear to be within parking area. These features were not noted on site plan as existing and to be removed. Parking lot on north side of building called out as 48'9" wide, Planning and Development inspector to check dimensions. (Revised Plans were requested from applicant and submitted on 09/28/07) |

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| <i>Details of Application Request</i> |                          |                         |                          |
|---------------------------------------|--------------------------|-------------------------|--------------------------|
| <i>Site Area</i>                      |                          |                         |                          |
| Net Acres                             | 0.24                     |                         |                          |
| <b>Surrounding Property</b>           | <b>Existing Land Use</b> | <b>Planned Land Use</b> | <b>Existing Zoning</b>   |
| Subject Property                      | Office                   | C (Commercial)          | C-1 (Limited Commercial) |
| North                                 | Medical Offices          | C (Commercial)          | C-1 (Limited Commercial) |
| South                                 | Community Center         | C (Commercial)          | C-1 (Limited Commercial) |
| East                                  | Offices                  | C (Commercial)          | C-1 (Limited Commercial) |
| West                                  | Retail Shops             | C (Commercial)          | C-1 (Limited Commercial) |

| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            |           |                   |
| Redevelopment Plan Area                           | X          |           | Y                 |
| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| <b>Special Purpose and Overlay Districts</b>      |            |           |                   |
| A-O (Airport Overlay) District (175')             | X          |           | Y                 |
| <b>Trails</b>                                     |            | X         | N/A               |
| <b>Rural Preservation Overlay District</b>        |            | X         | N/A               |
| <b>Development Impact Notification Assessment</b> |            | X         | N/A               |
| <b>Project of Regional Significance</b>           |            | X         | N/A               |

*Pursuant to Title 19.10, the following parking standards apply:*

| <i>Parking Requirement</i>           |  |                      |                 |              |                 |              |                   |
|--------------------------------------|--|----------------------|-----------------|--------------|-----------------|--------------|-------------------|
| <i>Use</i>                           | <i>Gross Floor Area or Number of Units</i> | <i>Parking Ratio</i> | <i>Required</i> |              | <i>Provided</i> |              | <i>Compliance</i> |
|                                      |  |                      | <i>Parking</i>  |              | <i>Parking</i>  |              |                   |
|                                      |  |                      | Regular         | Handi-capped | Regular         | Handi-capped |                   |
| Existing Office and Parking Impaired | 4,874 sf                                   | 1/300 sf gfa         | 13              | 1            | 12              | 1            | N                 |
| Additional Space                     | 684 sf                                     | 1/300 sf gfa         | 3               |              |                 |              |                   |
| <b>SubTotal</b>                      | 5,558 sf                                   |                      | 16              | 1            | 12              | 1            | N                 |
| TOTAL (including handicap)           |  |                      | 16              |              | 13              |              | N                 |
| Percent Deviation                    |  |                      | 19%             |              |                 |              |                   |

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## **ANALYSIS**

A 4,874 square foot building currently exists on the site and is considered parking impaired with the existing 13 parking spaces, as per Title 19.10.010 (C), Parking Impaired Development:

*A land use or building which is existing on the effective date of this Title and which complied with applicable parking standards at the time the use or building was established, but which does not comply with the requirements of this Section, shall not be considered a nonconforming use or nonconforming building; but rather, it shall be considered a “parking-impaired development.”*

It is the applicant’s intention to enclose the front patio area of the existing building to add to the square footage of the building, resulting in a 5,558 square foot building. For expansion of the existing building three additional spaces are required, as per Title 19.10.010(C):

*2. For any remodeling, alteration, or expansion of a parking-impaired development that requires an increase in the number of parking spaces, including the expansion of existing buildings or the construction of new buildings, only the increased number of parking space shall be required.*

The applicant has proposed the expansion of an existing building that greatly exceeds the lots ability to accommodate the necessary parking for a 5,558 square-foot office. With a maximum number of 13 parking spaces as proposed by the applicant, the maximum square footage permitted by code would be 3,900 square feet. The total deviation from the Title 19.04 standard for an Office use in this building has been calculated out to approximately 19%.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so

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as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by increasing the square footage of a building that is located on a lot that cannot accommodate the required number of required parking spaces. An alternative proposal that would not increase the building’s footprint would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 11

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 10

**NOTICES MAILED** 130

**APPROVALS** 1

**PROTESTS** 1